

MEETING SUMMARY

State/EPA SRF Work Group Meeting November 20 -21, 2002 Phoenix, AZ

- I. Welcome and Introductions** - Chuck Job and George Ames, EPA Headquarters
(See Attachment 1 for a complete listing of meeting attendees.)
Ground Rules - Ian Kline, Facilitator
- II. Report by Work Group Enhancement Subgroup** - Walt Baker, Utah
Walt Baker presented the enhancement ideas developed by the Subgroup (participants included state representatives Robin Hook, Tim Banks, and Joe McNealy). The state members of the Subgroup solicited input on the Work Group meeting agenda from the other 46 states and collaborated with EPA staff to shape the agenda. Over a series of meetings, the Subgroup also developed a proposal for a state co-chair and vice-chair. Mr. Baker presented the proposed responsibilities and method of selection for the state co-chair and vice-chair (see Attachment 2).
- Ms. Veronica Blette presented suggested changes to the Work Group's *Operating Procedures* (see Attachment 3). The biggest change was adopting three-year terms for all Work Group members, except those currently serving the last year of their four year term. In addition, each member would be responsible for identifying one alternate representative in the same Region and program area that could attend the meeting in his/her absence. If a member (or alternate) were to miss two consecutive meetings, they would be replaced on the Work Group. These suggestions were adopted by unanimous consent. The Work Group also agreed to keep the *Operating Procedures* document in draft form for future flexibility.
- III. State Co-chair and Vice-Chair Selection**
In an election run by the Facilitator, the Work Group's state members elected Walt Baker state co-chair and Tim Banks state vice-chair. Mr. Baker pledged to work with all the states to ensure their issues were discussed by the Work Group.
- IV. Updates -**
- < Legislative Activities on the Hill** - Veronica Blette
The CWSRF reauthorization legislation stalled in Congress. It got out of committee but never to the floor because of political issues, including the Davis-Bacon requirements. It may be reintroduced in the next Congressional session, but it is clear that security is currently the top legislative priority.

< **Gap Report** - Veronica Blette

EPA's Infrastructure Gap report was released on September 30th. Though the numbers differ somewhat, EPA, the Water Infrastructure Network (WIN), and the Congressional Budget Office (CBO), and others have estimated a very large, significant gap. EPA's report shows that the gap is not inevitable; an annual spending increase of three percent over inflation could allow utilities to make all necessary infrastructure investments.

< **The Community Water System Survey** - Veronica Blette

The final report for the Community Water System Survey is expected to be released in the next few months. It will provide significant data on the state of drinking water systems in the country.

< **Infrastructure Forum** - Chuck Job

As part of the infrastructure gap effort, EPA's Administrator will host a "Bridging the Gap" forum in Washington, D.C. on January 31, 2003. The forum will have two panels of experts to discuss strategies for asset management and innovative financing. The forum is open to the public on a first-come, first-served basis. States should discuss the forum with their directors, encourage them to attend, and pass along names of interested persons to EPA by mid-December for invitation.

< **EPA Watershed Initiative** - George Ames

The Watershed Initiative is still a fluid concept. Headquarters SRF staff have been working to ensure the initiative includes a discussion of the powerful role that the SRF can play. Headquarters is trying to establish a roundtable discussion amongst EPA financing entities—319, 320, Brownfields, SRF, Superfund, and eventually non-EPA entities like RUS and CDBG—to integrate and coordinate activities at the federal level.

< **National Drinking Water Advisory Council (NDWAC) Activities Related to the DWSRF** - Veronica Blette

As part of the implementation process for the Arsenic Rule, NDWAC is reexamining the threshold that EPA uses for its national affordability threshold used in rule-making. As part of this research, Headquarters SRF staff have demonstrated to the NDWAC subcommittee how the DWSRF helps all water systems, not just large water systems. It is possible that NDWAC could recommend changes to the DWSRF; EPA will keep the Work Group informed of any recommendations.

< **Investigations of SRFs** - Veronica Blette and Sheila Platt

As part of the EPA Inspector General's (IG's) review of the Capacity Development program, the IG has been looking at the interaction between the DWSRF program and capacity development - particularly the provisions for withholding state capitalization grants for states. EPA Headquarters may soon be under pressure to reexamine the issue of withholding if states

are not fully implementing their strategies; it is important for state DWSRF staff to work with their state's Capacity Development staff to ensure that all requirements are being met.

The IG has decided to conduct a performance evaluation on the CWSRF in 2003 by examining the states' IUPs, annual reports, and other documents to determine how well EPA is measuring the results of CWSRF projects. One Regional representative announced that GAO is planning on accompanying the Region on a state visit. *Subsequent information received indicated that this visit was related to a larger study being done on grant agreement oversight - not focused only on the SRF programs.*

GAO was going to examine how states assess capacity until it learned of the IG's study. GAO has decided to wait and find a way to complement the IG study.

< **Status of CW/DW Needs Surveys** - Veronica Blette and Sheila Platt

Training for the Drinking Water Needs Survey has already begun. Due to budget cuts, EPA was forced to eliminate small system site visits. The needs estimate for small systems will be based on the previous survey's estimate adjusted for inflation and changes in state inventory. Because EPA also reduced contractor support, the state effort will be much more important this round in determining the needs which are the basis for future DWSRF allotments.

There have been a number of delays for the Clean Water Needs Survey, primarily due to changes in EPA management. EPA expects the report to be sent to OMB by the end of the year and released during first half of next year.

< **EPA's Audit Strategy** - Sheila Platt

The purpose of this effort is to develop a standard framework for audits to ensure the integrity of the SRF programs. The first draft of the strategy has been circulated to the Regions for comment.

< **Status of Disadvantaged Business Enterprise (DBE) Rule** - Veronica Blette

The DBE Rule will be published in the *Federal Register* in January for a 90-day comment period. Meetings concerning this rule have been planned around the country. EPA will provide the meeting schedule to the Work Group members. EPA stressed that states would be best served by providing hard data on the impact that this rule will have on their SRF programs.

< **EPA Water Quality Funding Database** - Veronica Blette

EPA Headquarters has been developing an on-line database of water quality funding opportunities modeled after a similar resource provided by the State of Washington. EPA recently finished compiling all the information into an Oracle database. The website should be released in January. A link to the site will be on the Office of Water's website.

- < **EFAB Paper on Coordination with RUS** - George Ames
 EFAB's coordination paper is still a work in progress and may be delayed by recent leadership changes within EFAB. The EPA Administrator is interested in discussing coordination ideas with the Secretary for the Department of Agriculture. EPA will provide another update at the May Work Group meeting.

- < **Handbook on Coordinated Funding** - Veronica Blette
 EPA is working with The Cadmus Group to produce a handbook on coordinated funding that should be finished in early 2003. EPA may ask the Work Group to review the draft.

- < **Toolbook on Land Acquisition through the CWSRF/DWSRF** - Veronica Blette
 EPA is working on a toolbook for states to use in determining how to fund land acquisition. EPA hopes to release the tool prior to the June 2003 conference on source water protection.

- < **Status and/or Release of Recent Publications and Policies** - Veronica Blette and Sheila Platt
 The DWSRF program has released several fact sheets showing how the DWSRF can be used to address several new rules—Arsenic, Radionuclides, Stage 1 Disinfectants and Disinfection Byproducts, Filter Backwash Recycling, and Long Term 1 Enhanced Surface Water Treatment Rules. EPA is currently working on a fact sheet that addresses how the DWSRF can be used to fund transmission and distribution projects.

 Over the last few months, the CWSRF program has released two activity reports showing how states use the program to address nonpoint source needs: *Ohio's Restoration Sponsor Program Integrates Point Source & Nonpoint Source Projects* and *Innovative Use of Clean Water State Revolving Funds for Nonpoint Source Pollution*. EPA is also currently working on an activity report on "one-stop shopping" and an update to the brochure entitled *How to Fund Nonpoint Source and Estuary Enhancement Projects* (based on a July 1997 NPS brochure).

 The CWSRF fee policy is in the signature chain. EPA expects it to be published in the *Federal Register* in early 2003.

- < **Policy on Timing of Deposits** - Sheila Platt
 EPA has grown concerned with states holding bond proceeds and loan repayments outside the revolving fund. EPA Headquarters believes that these proceeds should be immediately deposited in the Fund and plans to develop a policy on timing of deposits. Ann Keener, Jim Evensen, and Carl Beimiller volunteered to serve on a Subgroup to discuss this timing policy. EPA is seeking additional volunteers to serve on this Subgroup.

III. Environmental Review and Other Cross-Cutter Issues - Sheila Platt

EPA's *Cross-cutter Handbook* is still under review by the Office of General Counsel. EPA is trying to address new cross-cutters such as Essential Fish Habitat. EPA hopes to finalize the *Handbook* in spring 2003.

OMB recently directed EPA to reinstate implementation of the February 2001 Executive Order 13202 (E.O.). The E.O. precludes contractors on SRF projects from agreeing to project labor agreements (PLAs). The application of the E.O. had been delayed since January 2002 due to a legal challenge. The D.C. Circuit Court has concluded that the E.O. is legal, and a recent memo instructed federal agencies to begin implementing it. EPA is working on a new grant condition based on the E.O. that will be sent out with all other grant conditions. The E.O. will apply to all federal dollars and the grant condition would be passed down to loan recipients. EPA warned that there is a chance that the E.O. policy may be retroactive to all grants made since the EO was originally issued.

Discussion

Several members described active projects in their states that would be affected by a retroactive policy. Members were concerned that this policy may prompt many systems to leave the SRF program, especially if applied retroactively because of the difficulty in withdrawing from a PLA. EPA agreed to e-mail the Work Group a copy of the decision from the D.C. Circuit Court. The Work Group decided that EPA should poll states to determine how many projects would be affected by a policy that would be retroactive to February 2001.

< State Weaknesses Identified Through EPA Annual Reviews

The most common weaknesses cited were inadequate state documentation, state confusion on how to implement earmark funds, and state confusion on applying cross-cutters. For example, states often retain copies of letters sent to other parties as documentation for concurrence.

Several states asked EPA if the E.O. on environmental justice is considered a cross-cutter. According to EPA, the E.O. on environmental justice is not a cross-cutter and will not be included in the cross-cutter handbook. EPA will soon release a memo encouraging states to consider environmental justice issues as part of their environmental review process.

A common weakness identified by many states and Regions was coordination with other federal agencies, like the U.S. Fish and Wildlife Service, US, and the Army Corps of Engineers. In many cases, these agencies do not cooperate and slow down the process by insisting on conducting their own reviews.

The final weakness identified was the lack of consensus about how the NEPA process should proceed under CWSRF if there is a match involved. Members asked for better guidance on how NEPA reviews are supposed to work, particularly when multiple agencies are involved.

Grantees are frustrated with trying to meet the demands of all the various agencies. States are frustrated because the grantees do not understand the state role.

< **State Experiences with STAG Grants**

Six states stated that they administer State and Tribal Assistance Grants (STAG). Utah's experience has been "bumpy" because recipients get mixed signals about who is leading the review process when EPA communicates directly with the grantee. If EPA delegates responsibility, Utah believes it should funnel communication with the recipient through the state.

Several states—Washington, Alaska, Oklahoma—reported that their STAG efforts have been smooth between the state and EPA. Several states make an early effort to sort out implementation responsibilities with EPA. Some states work with their Congressional delegation before the recipients are even finalized. Communication between EPA and states was identified as the key to a smooth process.

In addition, states should increase communication with their Congressional delegations to clear up any STAG issues. Some states do not know what to do when a funded project does not go forward. Some members thought that funds should be returned to the U.S. Treasury if projects do not go through, but several states responded that returning funds was taboo. Another problem is that grants are to counties, which are meaningless in some states.

< **State Efforts Related to Developing Uniform Procedures**

Several states have been working hard to develop coordinated funding among assistance agencies. States at the meeting discussed how their efforts to develop uniform application procedures was making the application process easier to navigate for systems.

Oklahoma has a funding agency coordination (FAC) team that meets monthly. The FAC team has agreed on a common set of documents that all applicants must provide. This allows an applicant to shop their project around without having to develop additional documentation materials. The FAC team reached a consensus on documentation by adopting the most stringent requirements.

Montana has an interagency group that has developed a uniform application for all funding programs. This interagency group works closely with each applicant to ensure that the maximum funding assistance is offered. Generally, the interagency group has adopted the most stringent requirements. A few agencies require supplemental materials (which allows for some disagreement about requirements). Montana was successful because it got "buy-in" from the utilities, grant writers, and engineers once they realized that a uniform application would increase their likelihood of success if one application could be sent to multiple agencies. Montana annually hosts 2 workshops targeted at helping small communities take advantage of this network of assistance.

Florida is trying to copy Montana's program. They have quarterly meetings with representatives from all funding agencies. There has been little success in developing a common application because most agencies do not seem willing to change their requirements. Currently, the state is working on developing a clearinghouse webpage that would allow small systems to identify the most appropriate funding source(s).

Minnesota uses its project priority list as the vehicle to coordinate all funding sources. The state looks at potential projects and carves up duties among agencies before the applicants even apply. The Rural Development Agency often takes the lead on the environmental review.

Georgia is working on coordinating marketing and assistance efforts. The board approval package is sent to all funding agencies. These agencies communicate frequently to ensure that the timing of each process is coordinated in order to achieve a successful outcome.

Pennsylvania has developed a common set of guidelines that satisfy the various funding agencies. These agencies have agreed on a core environmental review that is supplemented (if necessary) by individual agencies. Though it has taken a while to catch on, the process has worked well. The agencies are consulting with applicants during the planning process and host several statewide fairs so that borrowers can talk to a number of funding sources. Currently, the state is working on a common web-based application.

< **State Experiences with the Endangered Species Act (ESA)**

One Region has established a delegation letter with states allowing them to act as EPA for the purpose of ESA reviews. The state makes the "no effect" determination and notifies the applicable agencies. A "no effect" finding, unlike a "may effect" or "no adverse effect," does not require concurrence. If EPA does not object within 45 days, the state assumes it has received concurrence and allows the project to proceed. If there is an "adverse effect" finding, then EPA becomes involved with the Section 7 consultation. The biggest problem has been timeliness in responses from the Fish and Wildlife Service.

< **Application of Cross-cutters to Nonpoint Source (NPS) Projects**

In the CWSRF program, cross-cutters apply to all loans funded with federal funds (i.e., point source, non-point source and estuary). There was some variation among Regions and states as to how cross-cutters were applied to NPS projects. The only cross-cutters that apply to non-federally funded projects are the super cross-cutters (i.e., civil rights).

IV. Using the SRF Programs as Incentives for Promoting...

< **Water Conservation**

Florida has made most of its water conservation measures mandatory. CWSRF applicants are

required to consider water reuse. Florida's Water Management Districts have been given power to promote water conservation. The DWSRF program has taken the technical assistance set-aside and contracted with the Florida Rural Water Association to conduct leak detections. The RWA tells the system where problems are and follows up to see that actions are taken. Florida has considered requiring a water conservation plan but does not know how it would enforce the plans. The state is also considering an interest rate reduction for systems with conservation plans. The state has used the Missouri rate-setting model with the SW Florida Water Mgt District to show how systems can implement increased rate block structures. However, their experience that instituting increasing block pricing reduces water use only in the short term.

Massachusetts has begun coordinating SRF with its watershed management approach. They are making an effort to implement water conservation and starting outreach internally within their agency. Water rates in Massachusetts have risen dramatically, and many systems are now installing water meters to measure wastewater flows.

Several states in Region 10 have created incentives for farmers to replace flood irrigation with drip irrigation; drip irrigation uses less water and is easier to meter. In addition, Oregon requires systems to install water meters as a condition for SRF assistance.

Four states—Minnesota, Kansas, Utah, and Colorado—require water conservation plans of SRF applicants. Systems in Kansas were slow to accept the requirement, but now see it as a normal part of doing business. Kansas' state water agency follows up on implementation of water conservation plans.

Droughts in Montana have forced water systems to proactively consider water conservation even without a state requirement.

Systems in Illinois move higher up the priority list if water conservation is part of the project.

For Utah, the most important component of water conservation plans is creating a pricing structure that promotes conservation.

< **Affordability and Rate-Setting**

Several states were concerned that Senate Bill 1961 would require communities receiving assistance to charge rates that are high enough to pay off the debt for the asset now and to establish a reserve for total replacement in the future. Such requirements may push systems to seek financing on the private market. This would be a problem in a state (e.g., Massachusetts) with many communities that are shut out of the private market because they do not have a bond rating.

Leveraged states may be especially hurt if large communities with strong bond ratings chose to finance projects without SRF help. For instance, Minnesota benefits by having loan recipients with high bond ratings, like St. Paul, because it lowers the cost of leveraging. States were also concerned that in pushing systems towards the private market, Congress was ignoring the value-added role of the SRF program. SRF benefits include education, metering, loans that mirror the useful life of assets (which is not always true in the private market), and capacity development.

Utah has focused on ensuring that rates are sufficient to repay loans. Systems must maintain a bond fund, a reserve fund, and have sufficient revenue to cover operations and maintenance (O&M) costs. The terms of the loans are often based on ability-to-pay (determined by the community's most recent federal tax returns). Utah is more interested in basing rates on what it costs to provide service. A system has to adopt user charges and have established the required reserves before the loan is closed. Some loan agreements have an accelerated repayment schedule that is activated if the community reaches certain growth thresholds.

Utah has also developed a voluntary self-assessment for systems that allow them to determine if their revenues are sufficient to cover their O&M costs, repair costs, and replacement needs. Approximately 75% of all systems participate, which helps the state complete the needs survey and identify stressed systems. Utah is contemplating requiring systems receiving assistance to put money into a restricted fund that the community could access for future investment needs.

Massachusetts does not address rate-setting because it is such a difficult political issue. Up until this year, all loans had an interest rate of 0%; now all loans have a 2% interest rate. The state does not approve a loan with a 30 year term unless the asset has a 30 year useful life. Many Bay State communities are moving their drinking water and wastewater operations to enterprise funds so that customers can be charged the full cost of providing service. Massachusetts requires recipients to have a financial plan in place for replacement and to have adequate TMF capacity to keep infrastructure functioning properly in the long run.

Montana has found that small systems, especially poor small systems, have difficulty with rate-setting. Therefore, the state has not based its assistance on affordability. Communities have to figure out how to repay the loan. Many of these communities rely on their tax base to cover water expenses rather than on user fees. Therefore, many loan recipients issue general obligation bonds to pay back SRF loans.

Minnesota requires loan recipients to issue a general obligation revenue bond. If communities need to raise rates to be able to repay the loan, then they have to have a rate increase schedule in place. Communities are allowed to subsidize their revenues with general tax revenues on a short run basis. Communities that agree to extend service to unserved areas are allowed to fund the repayment through special assessments. The state requires systems to consider

equipment replacement (anything with less than a 20 year useful life) as part of O&M costs.

Washington, Illinois, and Minnesota all require systems to charge users enough to establish a replacement fund with the capacity to replace all major components.

Tennessee has required systems to fund O&M, depreciation, and debt service since 1987. If a system has 3 years of revenue losses they have to come before a board and agree to make changes with respect to rates, leak detection, etc. Almost 90% of their systems are in compliance with what is now seen as simple fiscal responsibility. Despite these requirements, there is still strong demand for SRF funding.

Washington has used its grants and loans to help communities that meet certain affordability criteria to refinance their debt. Communities facing severe hardships are given grants for up to 50% of their projects (grants capped at \$5 million). The state does not provide assistance if O&M has been neglected, but many systems cannot even afford 0% loans.

Idaho has changed its rules so that if a system is at fault for its financial or technical problems, the state does not provide a reduced interest rate.

Utah described its voluntary Municipal Wastewater Planning Program they have that has 75% participation. The program helps to get water operations in front of the City Council and utility managers get CEU's for filling out the forms. The results help with the state Clean Water Needs Survey, targets systems for technical assistance attention. The state also uses the results to identify benchmarks against which to assess progress.

< **Consolidation**

Florida promotes consolidation by offering additional priority points for consolidation projects (more points are awarded for each system consolidated), by granting assistance to large private systems only if the project includes consolidation, and encouraging troubled systems to consider regionalization during facilities planning. Two successful recent projects have involved several communities forming a non-profit entity and moving their well fields to reduce saltwater intrusion.

Consolidation in Vermont may slow due to the Stage 2 Disinfection and Disinfectant Byproducts Rule. Vermont has been encouraging small systems with low quality ground water sources to form consecutive systems. Small systems are going to balk at joining with a surface water system because they will not want to disinfect. In addition, environmental groups often oppose consolidation because they believe it encourages sprawl.

Instead of building a new plant for each community, Massachusetts has been facilitating MOUs between adjoining communities so that they can share a plant. To combat sprawl fears,

communities are encouraged to control land use through zoning laws.

Minnesota has many smaller outlying communities in rural areas - when regionalizing they were running miles of pipe to interconnect. The state is now trying to encourage centralized management over centralized treatment. They are wrestling with ownership issues when combining septics.

Washington refers some consolidation projects to regional planning boards. Though regionalization is encouraged, the state works to ensure that the user rates are fair and that there is a good inter-local agreement in place.

Vermont indicated that it is getting pressure from environmental groups to do small on-site wastewater systems instead of running pipe b/w communities because it can induce sprawl. The state asked if other states are getting pressure. Pennsylvania indicated that it gets pressure, but uses agricultural boards to approve. Minnesota indicated that it is a concern because centralized treatment can spur secondary growth. The state also has to deal with metropolitan areas leap-frogging growth by using septics and wells. In Massachusetts the state is working to convert areas on failed septic systems to central treatment - the environmentalists complain, but the problem is that communities are not stepping up to the plate and putting in zoning restrictions. In Utah it is viewed as a local issue. The smart growth advocates want to use the SRF as a spur to force communities to take action. The state allows for disclosure through environmental reviews. Washington encourages consolidation and regionalization has requirements through the state Growth Management Plan to control sprawl.

< **Watershed Management**

Massachusetts has integrated its watershed management and SRF programs. The watershed program has great public participation to complement the SRF resources. Most planning now is done at the watershed level rather than at the municipality level. The state's 2003 priority list has been changed to reflect the watershed management approach. Though the watershed management approach has been around for twelve years, it is unclear how much useful baseline data exists. Massachusetts is also creating an inventory of all potential drinking water sources in an attempt to prioritize protection efforts for aquifers in the state.

Alaska has been considering making habitat-forming aspects of NPS projects part of the priority ranking system. Several agencies in the state have been working together to prioritize Alaska's watersheds for protection and conservation purposes. The state has found that even pristine waters have contaminants in them and they need to identify if they are natural or man-made. The State plans to use the results to aim funding at the highest priority watersheds.

V. Performance Measures for SRFs - George Ames

The objectives for performance metrics are measuring the integrity of the program and measuring the benefits from the program. The federal government is becoming increasingly concerned with quantifying the benefits of federal investments. There are many possible methods for estimating benefits, including statistical sampling.

< **OMB Initiatives**

OMB has analyzed common performance measures for government programs that have similar missions in order to improve program management and make efficient use of resources. As part of their initiative, OMB developed common measures for programs that fund rural water systems through RUS, the Indian Health Service (IHS), the Bureau of Reclamation and the DWSRF. They selected two performance measures:

- number of connections per \$1 million (new versus existing)
- population served per \$1 million.

RUS has better project-level data than the DWSRF. The DWSRF estimates had to rely on National Information Management System (NIMS) data for systems serving fewer than 10,000. In the final analysis, it seems that RUS and DWSRF performed similarly. The information is supposed to be included in the President's FY 2004 budget.

OMB has developed a performance assessment rating tool (PART) to evaluate federal programs. This year OMB selected the DWSRF as one of the programs to evaluate. It is possible that they will do the CWSRF next year. The tool can be found at http://www.whitehouse.gov/omb/budintegration/part_assessing2004.html. The DWSRF was subjected to questions for formula grant programs. Much of the score is driven by several questions relating to strategic goals. The final score will be included within the FY 2004 budget submission. This process has made EPA Headquarters aware of how important it is for the SRF programs to think about measuring environmental benefits.

< **Previous Work**

A Subgroup formed several years ago spent 18 months developing performance measures. They identified the biggest problem as a lack of data. They decided on 8 characteristics of data to consider, including cost-effectiveness and ease of implementation. The Subgroup eventually agreed on several findings:

- Access to data was difficult;
- The exception is data on point source projects;
- Substantial modeling would be needed;
- Current tracking systems need to be revised;
- Data collection is currently driven by other goals;
- There may be other factors affecting water quality besides SRF projects;
- The fiscal climate in most state agencies will make data collection more difficult;
- Data collection should be discretionary; and
- Guidance material would be needed if states were asked to implement data

gathering measures.

Mr. Ames explained that much of the lack of environmental performance measures can be explained by the history of financial assistance programs. Originally, construction grants were seen as public works grants more than as environmental grants. EPA had prepared economic development reports associated with projects. Attention is now needed on defining benefits and determining how to attribute benefits. EPA is not convinced that it makes sense to attribute benefits to each single project. In addition, almost 85% of all infrastructure funding is coming from non-federal sources, which means the measures should take a holistic view of infrastructure benefits instead of focusing solely on those generated by the SRF portion of funding.

EPA would like feedback from the Work Group and will form a Subgroup to further examine the topic of performance measures and build on the ideas generated by the last Subgroup. Although this effort is voluntary, it is in everyone's best interests to contribute; the message now is too anecdotal. State volunteers on the Subgroup should get someone from their water quality staff involved because they might have a better understanding of appropriate indicators. The Subgroup should also consider how technical the measures should be, especially if the goal is to explain public health benefits to Congress. Some specific ideas included trying to capture the changes in designated uses and using ambient monitoring data from stations near CWSRF projects to tell a before-and-after story. EPA would also like to identify some economic multiplier effect for SRF investments.

States suggested working with stakeholder groups and public universities to access all available sources of data and labor. They also suggested that EPA should consider how to make 305(b) reports more applicable to SRF data needs. Several states thought there was plenty of point source data available (through USGS, 314, and 319) and suggested that the Subgroup focus on how to access already existing data. Others cautioned that available data might understate benefits because of loading increases from other sources. Another problem is that the data could be misleading.

Oklahoma is spending \$1.5 million annually to clean-up and improve their 305(b) report and their 303 list. Oklahoma's CWSRF is hiring contractors to examine all stream segments that are impacted directly by a CWSRF project. In addition, Oklahoma is trying to incorporate NPS projects and water quality preservation into its ranking structure.

Utah requires loan recipients to provide a performance demonstration. States could make monitoring or a demonstration of benefits part of the loan conditions for a recipient, as is done in Washington. All four states in Region 10 certify the performance of point source projects at the end of the project's first year in operation. Texas has invested in a high-tech GIS water quality program and would probably be willing to help. In addition, each state may be able to

use data from TMDL development to attribute loading reductions to CWSRF projects.

Nancy Parillo and Julie Cunningham volunteered to serve on the Subgroup. EPA is looking for additional volunteers.

V. State/EPA Relationship and Work Group Management Issues

- **CIFA Self-Certification Proposal**

A couple of states expressed frustration that the CIFA state certification proposal was being held up. State certification would give states more flexibility in administering their CWSRF programs by scaling back EPA's review of the program (i.e., eliminating on-site reviews). Members of the Work Group that had been at last May's meeting explained that state-certification had been discussed at length, but that none of the states present had been interested in state-certification (though they would not oppose state-certification as long as it was voluntary). Several regional representatives voiced concern that EPA was getting pressure from OMB and GAO to increase oversight rather than scale it back.

The Work Group acknowledged that CIFA's proposal was a good first step, but there were still many questions about the mechanics and details. EPA tried to form a Subgroup to develop a proposal for the Work Group but could not find state volunteers that were interested in state-certification. Turnover in leadership at Headquarters also slowed the consideration process.

The Work Group decided to have a group of states, including Montana, Massachusetts, and other state-certification proponents identified by CIFA, meet with Jim Hanlon describe CIFA's proposal and discuss how to streamline oversight operations. Assuming Mr. Hanlon is open to the idea of state-certification, EPA would convene a Subgroup that would develop a policy based on the CIFA's proposal and report back to the Work Group in May.

- **Relative Roles of Associations, Work Group, States, and Other Stakeholders in Addressing EPA Policy Questions**

The Work Group could coordinate with other organizations in a number of ways. Several states voiced support for working more closely with CIFA, which already has committees on several SRF-related issues such as uniform applications. Mr. Baker reminded the Work Group that their role was not to serve as a gatekeeper; states are free to bring issues directly to EPA. Several states like the overlap between the Work Group and other groups.

- **Communication Protocols between the Work Group, EPA, and Associations**

Several states suggested that EPA's communication of Work Group materials, including agendas and minutes, be expanded beyond just Work Group members. EPA agreed to look into posting Work Group materials on EPA's website. In addition, the new state co-chair and

vice-chair will work to improve the communication with all states.

Several members suggested EPA maintain a current list of e-mails to enable quick distribution of materials to all states. Others thought that the lists maintained by CIFA, ASDWA, and ASIWPCA may be easier to use and more current; EPA could send Work Group materials to these organizations for distribution. States were more comfortable with communication directly from EPA because these organizations could have different opinions than EPA. In addition, members agreed that it would be useful if EPA could send the agenda out earlier (at least one month in advance) to aid participants in getting travel authorization.

VI. State Questions for Discussion

- **What is aggressive leveraging?**

Aggressive leveraging allows for more accelerated cash draws when cash draws based on incurred costs would hamper a state's leveraging program. States interested in being approved for aggressive leveraging must meet the criteria set forth in the SRF regulations and the DWSRF ACH brochure.

There is a distinction between aggressive leveraging in an EPA sense and an aggressive leveraging strategy in a financial market sense. An aggressive leverage strategy might have a state leveraged at a ratio of three to one or five to one.

Any state considering leveraging should meet with a financial advisor to determine if leveraging makes sense. If leveraging, states should try to ensure they have strong borrowers in their pool to improve their bond rating. Leveraging should be carefully designed based on who the state wants to assist and what revenue streams the state can maintain.

- **What is the eligibility of off-stream pre-treatment reservoirs that are not located on the treatment site?**

Some systems employ off-stream reservoirs as a form of pre-treatment to prevent treatment facilities from being overwhelmed during periods of high turbidity. Some of these systems may also use the reservoirs as emergency sources. Some of these reservoirs could be considered storage to meet quantity needs.

The DWSRF regulations only allow funding for reservoirs if they are finished water reservoirs or if they are part of the treatment process and are on the property where the treatment facility is located. EPA had been asked to consider the eligibility of a project in the State of Ohio that could not be located on the same property as the treatment facility due to space constraints. Ohio had previously developed a set of criteria for funding off-stream reservoirs. EPA reviewed the state's criteria and determined that the project did not meet the state's own

criteria because the storage capacity was for 60 days. EPA is considering a regulatory change to allow off-site reservoirs that comply with a specified set of criteria. This change could be incorporated as part of the Long Term 2 Enhanced Surface Water Treatment Rule since pre-sedimentation basins (in the form of off-stream reservoirs) are recommended as part of that policy. The proposed criteria would include size restrictions and a limitation on partial funding (to prevent systems from adding extra capacity for storage). Tim Banks and Jay Rutherford agreed to work with EPA to develop this new policy.

- **Why did EPA create a separate Brownfields Revolving Loan Program apart from the SRF and what have been state experiences in funding Brownfields?**

The Brownfields RLF was originally created by an EPA initiative and recently codified by Congress. The program creates a fund to encourage the recovery and rehabilitation of Brownfield sites that were not contaminated enough to qualify for Superfund. EFAB recommended that CWSRF become involved to reduce duplication. In Maryland, the funds have been directed to the state on behalf of three communities. The waste management office has asked the SRF staff to manage the financial administration of the funds (since most local communities do not have the experience to set SRF interest rates). Leveraged states may have difficulty dealing with privately-owned recipients because of the need to keep credit ratings high.

- **How is state coordination on STAG projects going?**

Utah has taken over STAG grants, but has found it initially awkward communicating with recipients. None of the systems in Utah have asked for an SRF loan for match. In the future, Utah might try to meet with recipients as early as possible in the process to discuss the role the SRF can play in providing the match.

Montana has worked closely with EPA and CDBG to avoid review duplication of effort. In addition, most recipients are interested in an SRF match.

Washington works closely with their Region as soon as the recipient list comes out, which has worked well and ensures more consistent oversight.

In Region 6, some recipients began their projects before they realized they needed a match and are now no longer eligible for SRF assistance. To avoid this situation in the future, Region 6 has developed a pre-approval agenda that walks applicants through the whole process. Mr. Bowen agreed to distribute the pre-approval materials to the Work Group.

The one project in Hawaii thought about using the SRF for the match, but decided against it.

In Region 2, the states contact the recipients immediately to initiate the pre-approval process and ask if they are interested in an SRF match. New Jersey's efforts have been very

successful, while New York's have been mixed.

- **How Can States Fit Land Acquisition for Water Supply Protection Criteria within the Framework of the CWSRF PPL Evaluations?**

NPS projects fit under the impairment and restoration of water quality criteria. Both New York and New Jersey have been able to approve land acquisition as restoration even though it is protective in nature (\$40 million annually and \$20 million annually respectively). One of the reasons these states can fund these projects is that there is no funding backlog—these projects are approved even though they do not compete well.

- **What Mechanisms Would Help States Better Exchange Program Information**

Several participants asked EPA if it could set up a message board or host a listserve for informal questions and answers. EPA has discussed the idea in the past and hosts list serves in other programs, but the mechanics of hosting it may be difficult or costly. EPA agreed to look into it.

- **Are States Moving to Paperless Processes and How Will EPA Handle Paperless Grant Oversight?**

New York is well on its way to having a paperless IUP, but is grappling with a state law that requires a 40-year period of documentation archiving. Several states in Region 10 are considering paperless. Region 10 already asks states to submit their materials electronically. Florida has worked on reducing paper use by asking applicants to only submit one paper copy of all required planning documents (in addition to an electronic copy which is posted on the web for review). Pennsylvania is moving towards web-based applications, but is concerned about what kind of security measures and oversight EPA will expect (i.e., electronic signatures). The state still meets with applicants face-to-face to ensure their legitimacy. Some states doubted that their programs would ever go paperless. The CROMERR Rule will soon be finalized and will establish the reporting and archiving requirements for EPA. The Work Group decided to table this discussion until May when the CROMERRR Rule may be final.

- **Specific Cases**

One system is interested in having a dual-pipe distribution system to water green space to lower demand on its potable water source and to avoid having to install a surface water treatment plant. Installation of dual pipe distribution systems (potable and non-potable) is eligible for DWSRF funding as a means to lower the cost of treating water to potable standards. Many dual-pipe projects are proposed as water conservation measures, but also would achieve lower treatment costs. EPA has developed a one-page memo on the topic and will be developing specific criteria for funding dual-pipe distribution systems as part of a broader water conservation policy memo.

- **State Budgetary Pressures**

Several states in Region 4 were considering borrowing money from the SRF fund to address state budget issues and received a warning from EPA that they would be violation of the law. Washington had to get attorneys involved when the legislature attempted to divert repayments and interest income from a state loan program (not the SRF). Pennsylvania had \$20 million in state non-revolving fund resources (held outside Fund) that had to be repaid due to the fiscal crisis in the state. Vermont's SRF had to charge fees to make up for budget cuts. Some state officials in Minnesota have tried to access SRF money, but the program has successfully defended itself using the law. Oregon presumptively moved fee income in an account held outside the Fund into the Fund to protect it. EPA worked with Missouri when the state wanted to take money to balance the state budget. The Governor of Utah has been trying to access the funds generated by a sales tax dedicated to water financing and may try to go after SRF repayments.

VI. Recap and Planning for Next Meeting

The Facilitator reviewed the outcomes and action items from the meeting (see Attachment 4). The list was accepted by unanimous consent.

The next meeting is scheduled for May 6th and 7th in Washington, D.C. to coincide with the May CIFA meeting. In addition, the Fall 2003 meeting will be held in Boston on November 12th and 13th.

Attachment 1

List of Attendees

Work Group Members (and Alternates)

Veronica Blette	EPA Headquarters	Adele Basham	NV Bureau of Health Protection Services
Chuck Job	EPA Headquarters		
Sheila Platt	EPA Headquarters	Bobby Blowe	NC Division of Water Quality
George Ames	EPA Headquarters	Julie Cunningham	OK Water Resources Board
Ralph Caruso	EPA Region I	Ron Drainer	IL Environmental Protection Agency
Bob Gill	EPA Region II		
Mary Brewster	EPA Region III	James Evensen	AK Dept of Environmental Conservation
Carl Biemiller	EPA Region IV		
Gene Wojcik	EPA Region V	Jeff Freeman	MN Public Facilities Authority
Russ Bowen	EPA Region VI	Greg Mason	GA Environmental Facilities Authority
Ann Keener	EPA Region VII		
Brian Friel	EPA Region VIII	Anna Miller	MT Dept of Natural Resources and Conservation
Juanita Licata	EPA Region IX		
Michelle Tucker	EPA Region X	Nancy Parillo	MA Dept of Environmental Protection
Walt Baker	UT Dept of Environmental Quality	Bev Reinhold	PENNVEST
Tim Banks	FL Dept of Environmental Protection	Jay Rutherford	VT Water Supply Division
		Shara Stelling	WA Department of Ecology
		Steve Townley	MO Dept of Natural Resources
		Annette Witt	KS Dept of Administration

Other Attendees

Jordan Dorfman	EPA Headquarters
Kit Farber	EPA Headquarters
Richard Kuhlman	EPA Headquarters
Vinh Nguyen	EPA Headquarters
Cliff Yee	EPA Headquarters
Magdalene Cunningham	EPA Region III
Debbie Baltazar	EPA Region V
Wendy Klinker	EPA Region VII
Tracy Eagle	EPA Region VIII
Rick Green	EPA Region X
Margo Partridge	EPA Region X
Denise Dang	HI Dept. of Health
Robin Hook	CA Dept of Health Services
Jay Manning	RI Dept of Environmental Management
Janet Manookian	IN Dept. of Environmental Management
George Woolworth	HI Dept of Health
Rudd Coffey	The Cadmus Group
Ian Kline	The Cadmus Group

Attachment 2

State/EPA SRF Work Group State Co-Chair

November 4, 2002

Mechanism: Subgroup on Enhancing the State/EPA SRF Work Group

Deliverable: Develop a process for the selection of a state Co-chair and Vice-chair to the State/EPA SRF Work Group

Responsibilities of the Work Group Co-chair

1. Help EPA set the agenda for the biannual Work Group meetings.
2. Encourage active participation in the Work Group by state members.
3. Solicit nominations, review candidates and advise EPA on the appointment of state representatives to the Work Group.
4. Help train new state members of the Work Group in their responsibilities.
5. Organize biannual conference calls to state Work Group members to discuss issues in each region and compile them for further discussion at the biannual Work Group meetings.

Responsibilities of the Work Group Vice-chair

1. Assist the Work Group Co-chair.
2. Perform the duties of the Work Group Co-chair in his/her absence.

Co-chair and Vice-chair Terms

1. The Co-chair will serve a one-year term. The Vice-chair will serve a one-year term and automatically become the Work Group Co-chair and serve one year in that capacity.
2. To be a candidate for the Co-chair and Vice-chair positions a person must be a duly-appointed state representative to the Work Group and have served in that capacity for a minimum of one year.
3. The Co-chair and Vice-chair will begin serving immediately following the conclusion of the Work Group meeting where they are elected.

Selection of the State Co-chair and Vice-chair*

1. Only duly-appointed state representatives to the Work Group or their designated alternates are eligible to vote for the Co-chair and Vice-chair.
2. Prior to the vote to elect the state Co-chair and Vice-chair, state representatives to the Work Group will be asked if they are willing to serve in these capacities, dedicate the necessary time to perform the described duties of the positions and commit to attending the State/EPA SRF

Work Group meetings for the duration of their appointments. Only those who so commit will be considered for the positions.

3. Appointed state representatives to the Work Group will vote by individual and separate private ballots for both the Co-chair and Vice-chair positions.
4. The Work Group facilitator will conduct and privately tally the ballots for the Co-chair position and announce the leading vote-getter. The Work Group facilitator will then conduct and privately tally the votes for the Vice-chair position. In the event of voting ties, a coin-flip will be conducted to determine who will serve. No disclosure of actual votes will occur.
5. No attempt will initially be made to rotate the Co-chair and Vice-chair positions between the various disciplines represented on the Work group, e.g., Clean Water SRF, Drinking Water SRF and state finance agencies.

** Please note that after the initial election of the Co-chair and Vice-chair, subsequent elections will only be for the Vice-chair position, as the Vice-chair will automatically assume the Co-chair position for the following year.*

Attachment 3

Final Draft - November 2002 State/EPA SRF Work Group Operating Procedures

Mission – as stated at the 1st meeting in February 1998

To provide recommendations to EPA on policy issues related to the Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF) programs. Recommendations should be made from a national perspective – state Work Group members should represent the interests of other states in their Regions. EPA will consider all recommendations made by the Work Group.

Meetings

- Two meetings are held every year
- Fall meeting follows CIFA SRF Workshop (November)
- Spring meeting in Washington DC area (April/May)

Membership

The Work Group consists of 34 members:

- 6 from state DWSRF programs
- 6 from state CWSRF programs
- 6 from state finance agencies
- 10 from EPA Regional CW/DWSRF programs
- 2 from EPA Headquarters CWSRF program
- 2 from EPA Headquarters DWSRF program
- 1 from EPA Office of General Counsel
- 1 from EPA Grants Administration Division

Co-Chairs

- The Work Group will be co-chaired by an EPA member and a state member. The state Co-chair will be selected in accordance with the procedures described in a document entitled “State/EPA SRF Work Group State Co-Chair”. The EPA Co-chair will alternate annually between the branch chiefs representing the CWSRF and the DWSRF programs.

Selection of Members

- States are divided among 3 sub-groups representing the western, central, and eastern sections of the country. Each sub-group has 6 members, evenly distributed between the CWSRF, DWSRF, and Finance programs. (See Attachment)
- State management in CWSRF, DWSRF and Financial agencies are periodically solicited to determine their interest in serving on the Work Group. Solicitations are distributed through the EPA Regions. Potential members will be informed of their expected time commitment to the group.

- New members are selected from among the nominees by EPA Headquarters staff and the state Co-chair keeping in mind the need to ensure balance among Regions, state sizes, and program types. Previous members of the Work Group may rotate back onto the Work Group if potential members from other states cannot be identified. Those members that have been off the Work Group for the longest time period will be asked first.

Terms and Rotation

- Each member will serve a minimum three year term.
- Generally, every year 6 members (2 per sub-group) will rotate off the Work Group after the spring meeting.
- Failure of a Work Group member or their alternate to attend 2 consecutive meetings will be considered grounds for dismissal from the Work Group.

Alternates

- Members must identify an alternate who can attend meetings in their absence. Alternates can be from the same state or a different state. Alternates must be from the same programmatic area (DW/CW/F) and geographic sub-group. If obtaining travel funds are an issue, states may not want to consider having an alternate from their same state.
- Alternates are welcome to attend meetings. However, an alternate may only sit at the Work Group table if their primary representative is not in attendance.

Sub-Working Groups

- If needed, the Work Group will identify sub-working groups to address issues which are better handled by a smaller or specialized group of members. Sub-working groups may also include state or EPA members who are not members of the Work Group.

Pre-meeting

- An initial call for agenda items is made approximately 2 months prior to the meeting. The state Co-chair will also hold conference calls with the State members to identify topics.
- Drafts of the agenda are made available to Work Group members periodically for comment.
- As appropriate, EPA will distribute materials that Work Group members require in order to comment or participate in discussion during the meeting.

Meeting Structure

- Meeting rooms are set up in a “hollow square” configuration. Chairs are located on the perimeter of the room for other state or EPA personnel in attendance.
- A facilitator is present to field comments from Work Group members.
- A meeting is generally divided into 3 sections focusing on issues related to the DWSRF program, the CWSRF program, and Joint CW/DWSRF issues.
- Members of the sub-working groups may update the entire Work Group on progress.
- Meetings may include breakout sessions to allow discussion of issues in smaller groups.

- Agenda items are discussed by the group. The discussions are brought to closure by the facilitator or presenter and action items are identified for additional attention.
- Periodically and as time permits, discussion or comments may be solicited from attendees sitting outside the table.

Post-meeting

- Recaps of the meeting outlining action items are distributed to Work Group members within two weeks of the meeting.
- Minutes of the meeting are distributed to Work Group members within one month of the meeting.
- Sub-working groups identified during meetings convene as needed.

Attachment 4

Meeting Outcomes

1. The Work Group adopted the Co-chair process as proposed by the Subgroup. As part of that adoption, the group reached a consensus that Work Group members will serve terms of 3 years except for the members at the meeting that were beginning their 4th year of service. Their terms were grandfathered in at 4 years.
2. The state members of the Work Group elected Walt Baker as Co-chair and Tim Banks as Vice-chair.
3. The Work Group approved the draft operating procedures and agreed to keep the document a “working draft” to allow for future flexibility.
4. States were asked to provide EPA with names of individuals that should receive invitations for the Water Infrastructure Forum on January 31, 2003. **NOTE:** *Subsequent information about the Forum indicates that it will be open to the public - no invitations will be needed, however attendees will be asked to register to monitor room capacity. A notice will be sent to WG members when registration information is released.*
5. The Work Group established a Subgroup to discuss the timing of fund deposits in the SRF, i.e., bond proceeds, repayments, investment earnings, etc. Ann Keener, Jim Evensen, and Carl Biemiller volunteered to serve on the Subgroup. EPA will try to identify additional volunteers.
6. EPA will poll states to determine how many projects will be impacted if the Executive Order on Project Labor Agreements is applied retroactively.
7. EPA will provide the Work Group an answer on what should be done with STAG earmark project funds if the grant recipients decide not to undertake the intended project.
8. The Work Group formed a Subgroup to discuss SRF economic benefit measures and CWSRF environmental measures. Julie Cunningham and Nancy Parillo volunteered to serve on the Subgroup. EPA will try to identify additional volunteers. The group may also discuss potential environmental indicators for the DWSRF.
9. A conference call meeting with Jim Hanlon, state representatives identified by CIFA, and Walt Baker representing the Work Group will be scheduled in the near future to discuss state certification. If Jim Hanlon is open to the idea of state certification, then the Subgroup (formed last spring) will meet and develop a state certification proposal for the Work Group’s spring meeting.

10. George Ames, Chuck Job, Walt Baker, and Tim Banks will work together to identify a process to send out agendas and minutes to all states in a timely manner. In addition, meeting agendas and minutes will be provided to stakeholder organizations, including ASDWA, CIFA, and ASIWPCA. Finally, EPA will post Work Group agendas and minutes on EPA's website.
11. EPA will be developing a policy to allow DWSRF funding of pre-treatment reservoirs that are not located on the site of the treatment facility. Jay Rutherford and Tim Banks have agreed to review documents.
12. Walt Baker will gather information on STAG grant coordination and distribute the information to the states.
13. EPA will look into hosting an SRF-related listserv and report back to the Work Group at the spring meeting.
14. The spring meeting will be held in Washington, D.C. May 6-7, 2003. The fall meeting will be held in Boston November 12-13, 2003.